



DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R2–ES–2021–0054; FF09E22000 FXES11130900000 212]

RIN 1018–BE43

Endangered and Threatened Wildlife and Plants; Removing the Braken Bat Cave Meshweaver from the List of Endangered and Threatened Wildlife

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), propose to remove the Braken Bat Cave meshweaver (*Cicurina venii*), an arachnid, from the Federal List of Endangered and Threatened Wildlife (i.e., “delist” the species) under the Endangered Species Act of 1973, as amended (Act), because of a taxonomic revision. The proposed delisting is based on our evaluation of the best available scientific and commercial information, which indicates that Braken Bat Cave meshweaver is not a discrete taxonomic entity and does not meet the definition of a species as defined by the Act.

Cicurina venii has been synonymized with *Cicurina madla*, the Madla Cave meshweaver.

Therefore, due to a taxonomic revision, *C. venii* is no longer a scientifically accepted species and cannot be listed under the Act. However, because the Braken Bat Cave meshweaver has been synonymized under the Madla Cave meshweaver, its status, and thus its protections under the Act, would remain the same because the Madla Cave meshweaver is listed as endangered under the Act.

DATES: We will accept comments received or postmarked on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

Comments submitted electronically using the Federal eRulemaking Portal (see

ADDRESSES, below) must be received by 11:59 p.m. Eastern Time on the closing date.

We must receive requests for public hearings, in writing, at the address shown in **FOR FURTHER INFORMATION CONTACT** by [INSERT DATE 45 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments by one of the following methods:

(1) *Electronically:* Go to the Federal eRulemaking Portal:

<https://www.regulations.gov>. In the Search box, enter FWS–R2–ES–2021–0054, which is the docket number for this rulemaking. Then, click on the Search button. On the resulting page, in the Search panel on the left side of the screen, under the Document Type heading, check the Proposed Rule box to locate this document. You may submit a comment by clicking on “Comment.”

(2) *By hard copy:* Submit by U.S. mail to: Public Comments Processing, Attn:

FWS–R2–ES–2021–0054, U.S. Fish and Wildlife Service, MS: PRB/3W, 5275 Leesburg Pike, Falls Church, VA 22041–3803.

We request that you send comments only by the methods described above. We will post all comments on <https://www.regulations.gov>. This generally means that we will post any personal information you provide us (see **Information Requested**, below, for more information).

Document availability: This proposed rule and supporting documents including the 5-year review and the Recovery Plan are available at <https://www.fws.gov/southwest/es/AustinTexas/>, at <https://www.regulations.gov> under Docket No. FWS–R2–ES–2021–0054, and at the Austin Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

FOR FURTHER INFORMATION CONTACT: Adam Zerrenner, Field Supervisor, U.S. Fish and Wildlife Service, 10711 Burnet Road, Suite 200, Austin, TX 78758; telephone 512–490–0057. Persons who use a telecommunications device for the deaf

(TDD) may call the Federal Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Information Requested

We intend that any final action resulting from this proposed rule will be based on the best scientific and commercial data available and be as accurate and as effective as possible. Therefore, we request comments or information from other concerned governmental agencies, Native American Tribes, the scientific community, industry, or any other interested parties concerning this proposed rule.

We particularly seek comments concerning:

(1) Reasons we should or should not remove the Braken Bat Cave meshweaver from the List of Endangered and Threatened Wildlife.

(2) New information on the historical and current status, range, distribution, and population size of the Braken Bat Cave meshweaver.

(3) Additional taxonomic or other relevant data concerning the Braken Bat Cave meshweaver.

Please include sufficient information with your submission (such as scientific journal articles or other publications) to allow us to verify any scientific or commercial information you include.

Please note that submissions merely stating support for, or opposition to, the action under consideration without providing supporting information, although noted, will not be considered in making a determination, as section 4(b)(1)(A) of the Act directs that determinations as to whether any species is an endangered or a threatened species must be made “solely on the basis of the best scientific and commercial data available.”

You may submit your comments and materials concerning this proposed rule by one of the methods listed in **ADDRESSES**. We request that you send comments only by the methods described in **ADDRESSES**.

If you submit information via <https://www.regulations.gov>, your entire submission—including any personal identifying information—will be posted on the website. If your submission is made via a hardcopy that includes personal identifying information, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so. We will post all hardcopy submissions on <https://www.regulations.gov>.

Comments and materials we receive, as well as supporting documentation we used in preparing this proposed rule, will be available for public inspection on <https://www.regulations.gov>.

Because we will consider all comments and information we receive during the comment period, our final determination may differ from this proposal. Based on the new information we receive (and any comments on that new information), we may conclude that the Braken Bat Cave meshweaver (*Cicurina venii*) should remain listed as endangered, if the best available information regarding its validity as a taxon changes before our final determination.

Public Hearing

Section 4(b)(5) of the Act provides for a public hearing on this proposal, if requested. Requests must be received by the date specified in **DATES**. Such requests must be sent to the address shown in **FOR FURTHER INFORMATION CONTACT**. We will schedule a public hearing on this proposal, if requested, and announce the date, time, and place of the hearing, as well as how to obtain reasonable accommodations, in the *Federal Register* and local newspapers at least 15 days before the hearing. For the immediate future, we will provide these public hearings using webinars that will be announced on the Service's website, in addition to the *Federal Register*. The use of these virtual public hearings is consistent with our regulations at 50 CFR 424.16(c)(3).

Peer Review

In accordance with our policy, “Notice of Interagency Cooperative Policy for Peer Review in Endangered Species Act Activities,” which was published on July 1, 1994 (59 FR 34270) and our August 22, 2016, Director’s Memorandum “Peer Review Process,” we will seek the expert opinion of at least three appropriate and independent specialists regarding scientific data and interpretations contained in this proposed rule. We will send copies of this proposed rule to the peer reviewers immediately following publication in the *Federal Register*. We will ensure that the opinions of peer reviewers are objective and unbiased by following the guidelines set forth in the Director’s Memo, which updates and clarifies Service policy on peer review (U.S. Fish and Wildlife Service 2016). The purpose of such review is to ensure that our decisions are based on scientifically sound data, assumptions, and analysis. Accordingly, our final decision may differ from this proposal.

Previous Federal Actions

On December 26, 2000, we published a final rule listing the nine Bexar County karst invertebrates, including Braken Bat Cave meshweaver, as endangered species (65 FR 81419). On April 8, 2003, we designated 1,063 acres (431 hectares) in 22 units as critical habitat for the nine karst invertebrates (68 FR 17156). Of this, one unit (Unit 15) on 217 acres (88 hectares) in western Bexar County, Texas was designated as critical habitat for the Braken Bat Cave meshweaver. Following litigation (*CBD v. FWS*, case number 1:09–cv–00031–LY), we entered into a settlement agreement to revise the critical habitat designation. On February 14, 2012, we finalized a critical habitat determination (77 FR 8450), designating in one unit (Unit 15) on 217 acres (88 hectares) in western Bexar County, Texas as critical habitat for the Braken Bat Cave meshweaver.

We completed a recovery plan for the Bexar County karst invertebrates, including the Braken Bat Cave meshweaver, on September 12, 2011 (Service 2011a). Our most

recent 5-year review for the Madla Cave meshweaver (Service 2019) discusses the synonymization of the Braken Bat Cave meshweaver with the Madla Cave meshweaver.

Background

Species Information and Biology

The Braken Bat Cave meshweaver is a small, troglobitic (cave-dwelling) spider that inhabits caves and mesocaverns (humanly impassable voids in karst limestone) in Bexar County, Texas. Because the species is restricted to the subterranean environment, individuals exhibit morphological adaptations to that environment, such as elongated appendages and loss or reduction of eyes and pigment (Service 2011b, p. 2).

Habitat and Distribution

Habitat for the Braken Bat Cave meshweaver includes karst-forming rock containing subterranean spaces (caves and connected mesocaverns) with stable temperatures, high humidities (near saturation), and suitable substrates (for example, spaces between and underneath rocks for foraging and sheltering) that are free of contaminants (Service 2011b, p. 2). Although this species spends its entire life underground, its ecosystem is dependent on the overlying surface habitat (Service 2011b, p. 2). Examples of nutrient sources include leaf litter that has fallen or washed in, animal droppings, and animal carcasses. Individuals require surface and subsurface sources (such as plants and their roots, fruits, and leaves, and animal (e.g., cave cricket) eggs, feces, and carcasses) that provide nutrient input into the karst ecosystem (Service 2011a, p. 6).

The Braken Bat Cave meshweaver is known from only two caves in the Culebra Anticline karst fauna region. One is located on private property, and the other occurs on a highway right-of-way. The species was first collected in 1980 and 1983 in Braken Bat Cave, but the cave itself was not initially described until 1988 (Reddell 1993, entire). The cave entrance was filled during construction of a home in 1990. Without excavation, it is difficult to determine what effect this incident had on the species; however, there may

still be some nutrient input, from a reported small side passage. The remaining location was discovered in 2012, during construction of State Highway 151 in San Antonio, Texas. Originally a void with no entrance, that feature was capped with concrete and the soil and vegetation above it was restored to the extent possible.

Threats to the species and its habitat include destruction and/or deterioration of habitat by construction; filling of caves and karst features; increase of impermeable cover; contamination from septic effluent, sewer leaks, run-off, pesticides, and other sources; predation by and competition with nonnative fire ants; and vandalism (65 FR 81419; December 26, 2000).

Taxonomy

Spider taxonomy generally relies largely on genitalic differences in adult specimens to delimit species (Paquin and Hedin 2004, p. 3240; Paquin *et al.* 2008, p. 139; Paquin and Dupérré 2009, p. 5). Delimiting troglobitic *Cicurina* species in particular is difficult not only because of the inaccessibility of their habitat for gathering adequate samples (Moseley 2009, pp. 47–48), but because most collections return immature specimens (Gertsch 1992, p. 80; Cokendolpher 2004, p. 15; Paquin and Hedin, 2004, p. 3240; Paquin *et al.* 2008, p. 140; Paquin and Dupérré 2009, p. 5). In addition, the few adults that are collected are disproportionately female (Cokendolpher 2004, pp. 14, 15, 17–18; Paquin and Dupérré 2009, p. 5). As females of troglobitic *Cicurina* exhibit variability in genitalic characters within and between caves, this makes it difficult to determine whether an individual represents a distinct species or intraspecific variation based on morphology alone (Cokendolpher 2004a, pp. 30–32; Paquin and Duperre 2009, pp. 5–6; Paquin *et al.* 2008, pp. 140, 143, 147; Paquin and Dupérré 2009, pp. 4–6, 63–64).

The Braken Bat Cave meshweaver and Madla Cave meshweaver were originally described in 1992, from single female specimens found in Braken Bat Cave and Madla's

Cave, respectively (Gertsch 1992, pp. 109, 111). These species were two of only four cave-dwelling spiders of the genus *Cicurina* described from Bexar County at the time (Gertsch 1992, p. 98) and were differentiated based on their geographic location and specific morphological characters of the females (Gertsch 1992, pp. 84, 109, 111; Cokendolpher 2004, pp. 26, 43, 52).

Various genetic data were combined to address species delimitation questions in troglobitic *Cicurina* species, including the Braken Bat Cave meshweaver (Hedin *et al.* 2018, entire). Analysis of the evolutionary history of the species using genetics (phylogenomics) revealed two lines of ancestry, both of which are eyeless and correspond to groups previously described based on female morphology and troglobitic (cave-dwelling) adaptations, specifically the shape of the female sperm storage organ and the ratio of leg length to body length (Hedin *et al.* 2018, pp. 55, 61, 63–64; Cokendolpher 2004, p. 18; Paquin and Dupérré 2009, p. 9). Although the type specimen for the Braken Bat Cave meshweaver was not included in the genetics portion of the study because DNA could not be collected due to age, newly discovered specimens from the same geographic region with similar morphology to the Braken Bat Cave meshweaver placed it in the Madla Cave meshweaver clade genetically (Hedin *et al.* 2018, pp. 56–57; Hedin *et al.* 2018, p. 67).

Therefore, based on similarity of morphologic characteristics and mitochondrial and nuclear DNA results, Braken Bat Cave meshweaver was synonymized under Madla Cave meshweaver (Hedin *et al.* 2018, p. 68). This synonymy was accepted by the World Spider Catalog (World Spider Catalog 2019). Please refer to the Bexar County Karst Invertebrates Recovery Plan (2011), the Bexar County Karst Invertebrates 5-year Review (2011), and the Madla Cave Meshweaver 5-year Review (2019) for more information.

Delisting Proposal

Section 4 of the Act (16 U.S.C. 1533) and its implementing regulations (50 CFR

part 424) set forth the procedures for listing species on, reclassifying species on, or removing species from the Federal Lists of Endangered and Threatened Wildlife and Plants. The Act defines “species” as including any species or subspecies of fish or wildlife or plants, and any distinct population segment of vertebrate fish or wildlife that interbreeds when mature (16 U.S.C. 1532(16)). We may delist a species according to 50 CFR 424.11(e) if the best available scientific and commercial data indicate that the species is neither endangered nor threatened for one or more of the following reasons: (1) The species is extinct; (2) the species does not meet the definition of an endangered species or a threatened species; or (3) the listed entity does not meet the statutory definition of a species. For the Braken Bat Cave meshweaver, we conclude that the existing scientific information demonstrates that Braken Bat Cave meshweaver is not a discrete taxonomic entity and, therefore, does not meet the Act’s definition of “species” (16 U.S.C. 1532(16)). Therefore, we propose to delist the Braken Bat Cave meshweaver. The Braken Bat Cave meshweaver does not require a post-delisting monitoring (PDM) plan because the monitoring plan does not apply to delisting species due to taxonomic change.

Effects of This Proposed Rule

This proposal, if made final, would revise 50 CFR 17.11(h) by removing the Braken Bat Cave meshweaver from the Federal List of Endangered and Threatened Wildlife. However, because the Braken Bat Cave meshweaver has been synonymized under the Madla Cave meshweaver, its status, and thus its protections under the Act, would remain the same because the Madla Cave meshweaver is listed as endangered under the Act. This additional locality was included in the Madla Cave meshweaver 5-year review and did not change the status of the species (Service 2019, p.17).

Unit 15, the area surrounding Braken Bat Cave, was designated as critical habitat for Braken Bat Cave meshweaver in 2012. Because Braken Bat Cave meshweaver had

designated critical habitat, this rule would also amend 50 CFR 17.95(g) to remove the Braken Bat Cave meshweaver's designated critical habitat. This area has not yet been evaluated to determine if it is essential to the conservation of the Madla Cave meshweaver. Should we evaluate it in the future, proposing this unit as critical habitat for Madla Cave meshweaver would be completed in a subsequent rulemaking. Unit 15, however, is also critical habitat for an endangered beetle with no common name, *Rhadine infernalis*. Therefore, if we adopt this action as proposed, Unit 15 would retain the protections of the Act as designated critical habitat for *R. infernalis*.

Required Determinations

Clarity of the Rule

We are required by Executive Orders 12866 and 12988 and by the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means that each rule we publish must:

- (1) Be logically organized;
- (2) Use the active voice to address readers directly;
- (3) Use clear language rather than jargon;
- (4) Be divided into short sections and sentences; and
- (5) Use lists and tables wherever possible.

If you feel that we have not met these requirements, send us comments by one of the methods listed in **ADDRESSES**. To better help us revise the rule, your comments should be as specific as possible. For example, you should tell us the numbers of the sections or paragraphs that are unclearly written, which sections or sentences are too long, the sections where you feel lists or tables would be useful, etc.

National Environmental Policy Act (42 U.S.C. 4321 et seq.)

We have determined that environmental assessments and environmental impact statements, as defined under the authority of the National Environmental Policy Act

(NEPA; 42 U.S.C. 4321 *et seq.*), need not be prepared in connection with determining a species' listing status under the Endangered Species Act. We published a notice outlining our reasons for this determination in the *Federal Register* on October 25, 1983 (48 FR 49244).

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994 (Government-to-Government Relations with Native American Tribal Governments; 59 FR 22951), Executive Order 13175 (Consultation and Coordination with Indian Tribal Governments), and the Department of the Interior's manual at 512 DM 2, we readily acknowledge our responsibility to communicate meaningfully with recognized Federal Tribes on a government-to-government basis. In accordance with Secretarial Order 3206 of June 5, 1997 (American Indian Tribal Rights, Federal-Tribal Trust Responsibilities, and the Endangered Species Act), we readily acknowledge our responsibilities to work directly with Tribes in developing programs for healthy ecosystems, to acknowledge that Tribal lands are not subject to the same controls as Federal public lands, to remain sensitive to Indian culture, and to make information available to Tribes. We do not expect any Tribes would be affected by this proposed delisting because there are no Tribal lands in the range of the species.

References Cited

A complete list of references cited in this rulemaking is available on the Internet at <https://www.regulations.gov> and upon request from the Austin Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Authors

The primary authors of this proposed rule are the staff members of the Fish and Wildlife Service's Species Assessment Team and the Austin Ecological Services Field Office.

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Proposed Regulation Promulgation

Accordingly, we propose to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361-1407; 1531-1544; and 4201-4245, unless otherwise noted.

§ 17.11 [Amended]

2. Amend § 17.11(h) by removing the entry for “Meshweaver, Braken Bat Cave” under ARACHNIDS from the List of Endangered and Threatened Wildlife.

§ 17.95 [Amended]

3. In § 17.95, amend paragraph (g) by removing the entry for “Braken Bat Cave Meshweaver (*Cicurina venii*)”.

Martha Williams

Principal Deputy Director

Exercising the Delegated Authority of the Director

U.S. Fish and Wildlife Service.

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